THE EXEMPTIONS FROM LAND-REVENUE (NO. 2) ACT, 1863.

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SCHEDULE.

BOMBAY ACT No. VII OF 1863.[1]

[THE EXEMPTIONS FROM LAND-REVENUE (No. 2) ACT, 1863.][1]

[*2nd July, 1863.*]

An Act for the summary settlement of claims to exemption from the payment of Government land-revenue, and for regulating the terms upon which such exemption shall be recognized in future, in those parts of the Bombay Presidency which are not subject to the operation of [2]Act XI of 1852 of the Council of India.

Preamble.

WHEREAS in districts which are not subject to the operation of [2]Act XI of 1852 it is expedient to provide, with certain exceptions, for the

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1862, Supplement, p. 635; for Report of the Select Committee, *see ibid*, p. 742; and for Proceedings in Council, *see ibid*, p. 715, and *ibid*, 1863, pp. 209 and 234.

The short title was given by the Bombay Short Titles Act, 1921 (Bom. Act 2 of 1921), Vol. V of this Code.

As to the application of Bom. Act 7 of 1863, *see* the Bombay Land-revenue Code, 1879 (Bom. Act 5 of 1879), s. 127, *infra*.

[2] Vol. I of this Code.

summary settlement of all claims to hold land, wholly or partially exempt from payment of land-revenue, and for regulating the terms on which such exemption shall be recognized in future so as to preclude all doubt in regard to the relative rights of Government and the holders of such lands, and further to make provision for the exceptions aforesaid; It is hereby enacted:—

1. [*Repeal.*] *Rep. Act XII of 1873.*

Power to authorise and guarantee continuance, in perpetuity, of land in certain districts to holders on terms and conditions agreed to.

2. *Clause 1st.*—When the holders of lands in any of the said districts (except as is excepted in clause 2 of this section), held either wholly or partially exempt from the payment of Government land-revenue, shall consent to the terms and conditions hereinafter described, in preference to being obliged to prove their title to the exemption enjoyed by them, it shall be lawful for the Governor in Council to finally authorize and guarantee by sanad the continuance, in perpetuity, of the said land to the said holders, their heirs and assigns, upon the said terms, and subject to the said conditions.

Exceptions.

Clause 2nd.—The excepted cases to which the authority of adjustment and guarantee vested in the Governor in Council by this provision shall not extend are as follows:—

1st—lands held under treaty:

2nd—lands granted or held as saranjám, or on a similar political tenure:

3rd—lands held for service:

4th—lands already formally adjudicated to be not continuable hereditarily.

Future tenure of lands included in exceptions.

Clause 3rd.—1st—Lands held under treaty shall continue to be held according to the terms of such treaty.

2nd—Lands granted or held as saranjám, or on similar political tenure, shall be resumable or continuable in such manner, and on such terms, as Government, on political considerations, may, from time to time, see fit to [1]determine.

3rd—Lands held for service shall be resumable or continuable under such general rules as Government may think proper, from time to time, to lay down.

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[1] See in this connection rule 10 of Schedule B of Act 11 of 1852 (Titles to rent-free estates) in Vol. I of this Code.

4th—Lands already formally adjudicated to be not continuable hereditarily shall continue to be held according to the decision passed in each case.

Clause 4th.—[*Rep. Act X of 1876.*]

Lands to which Act does not apply.

3. This Act shall not apply to lands which, in villages held on táluqdárí, bhágdárí, narwádárí, khotí or other similar tenure, may have been partially or wholly alienated by the present or former holders of the said villages or by any one of them; and, in the event of the management of such villages being at any time resumed by Government, all land so alienated shall revert to Government unaffected by the acts of the holders or any of them, so far as the public revenue is concerned, but without prejudice in other respects to the rights of individuals.

4, 5.—[*Commutation of cesses, etc., and of occasional assessments.*] *Rep.* (*locally*) *Bom. Act V of 1879.*

Lands continued under section 2, clause 1, to be heritable and transferable property of holders, subject to fixed annual payment to Government.

6. When the Government in Council shall, under clause 1 of section 2, finally authorize and guarantee the continuance, in perpetuity, to the holders, their heirs and assigns, of land wholly or partially exempt from the ordinary payment of annual land-revenue, the said lands shall (subject to the enactments contained in section 7 * * *[1]) be the heritable and transferable property of the said holders, their heirs and assigns, without restriction as to adoption, collateral succession or transfer; and such lands shall thenceforth be continued, in perpetuity, subject to a fixed annual payment to Government, calculated at the rate of two annas for each rupee of the assessment, which assessment shall be ascertainable under the following rules:

Rules for ascertaining amount of assessment.

Rule 1.—The assessment of lands other than those specified in rule 2 shall, with respect to lands which have already been assessed by the revenue-survey now in progress, be the assessment already imposed upon those lands by that revenue-survey, and, with respect to lands which have not yet been assessed by that revenue-survey, shall be such assessment as shall be agreed on by the Collector or settling officer and the owner or holder of the lands, which shall be final: and, in failure of their agreement, it shall be the existing rental of the lands until the revenue-survey now in progress shall have placed a new assessment thereon, after which the assessment so placed by the said revenue-survey shall be understood to be the assessment.

And it shall be lawful for the duly authorized officers of Government employed in the said revenue-survey to enter upon all lands not

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

heretofore assessed by such revenue-survey, for the purpose of fixing and making such assessment thereof.

Rule 2.—The assessment of lands of such an exceptional character as not to be assessable under the revenue-survey rules shall be in the discretion of the Revenue-officers of Government, which discretion shall be guided, so far as may be, by the rate at which similar land in the same district belonging to Government is let, due regard being had by the said Revenue-officers to all equitable considerations affecting such lands.

Shares of the revenues of villages (such as amals) shall be assessed for the purposes of this Act at the value thereof, calculated at the average shown by such accounts of actual realizations by the holders as are forthcoming for the ten years immediately preceding the promulgation of these rules.

Rule 3.—Lands for which a Júdí, sálámí or other quit-rent or land-tax, under whatever denomination, is already paid to Government or may be payable to Government under the sections last preceding, instead of being liable to only one-eighth of the assessment, shall, in addition to the annual amount of such júdí, sálámí, quit-rent or other tax aforesaid, be liable to a further annual quit-rent equal to one-eighth of the sum by which the annual or average annual amount of such júdí, sálámí or other quit-rent or tax aforesaid may fall short of the assessment.

Rule 4.—Quit-rent imposed under this section (section 6) shall be fixed in perpetuity, and shall not be liable to increase or decrease on any new assessment, save in so far as is above in rule 1 of this section (section 6) provided to the contrary, in the case of lands which have not been already assessed by the revenue-survey now in progress.

Rule 5.—The whole of the exempt lands found in the possession of each holder, even if in excess of the original alienation, shall be continued according to the provisions of this section (section 6) and the rules thereunto annexed, and subject to the enactments contained in section 7.

Settlement under section 6, as regards right to levy annual quit-rent, binding on rightful owner as well as land-holder.

7. Any settlement made by the Governor in Council with the holder of land held wholly or partially exempt from the payment of land-revenue in accordance with section 6 * * *[1] and the rules annexed to the said section, shall, so far as the right of Government to levy the annual quit-rent mentioned in the said section is concerned, not only be binding upon such holder, his heirs and assigns, but also on the rightful owner, his heirs and assigns, whosoever such rightful owner may be:

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

Provided always that the said rightful owner, his heirs and assigns, shall not by this Act, or anything therein contained, be deprived of any rights or remedies [1] * * * to which he or they would be entitled against the said holder, his heirs or assigns, for the recovery of the said lands or any part thereof, if this Act had not been passed; and in the event of the rightful owner, his heirs or assigns, recovering the said lands or any part thereof, from the said holder, his heirs or assigns, any declaration, guarantee or settlement made by the Governor in Council under or in accordance with sections 2 and 6 * * *[2], and the rules annexed to the said section 6, with respect to the said lands, while the same were in the possession of the said holder, shall accrue to the benefit of the said rightful owner, his heirs and assigns.

Saving of rights and remedies of rightful owner, his heirs and assigns, against holder, his heirs or assigns.

8. Whenever a holder of alienated lands, on being called upon, under the rules to be hereinafter enacted, to declare if he consents to the quit-rent described in section 6, shall plead that his title has already been formally adjudicated, then on proof of such adjudication, and provided the case do not fall under case 4 of clause 2, section 2, the said holder shall be exempt both from liability to the said quit-rent and from any further inquiry into title:

On proof of adjudication of title, holder exempt from quit-rent and from further inquiry into title.

Provided, however, that, if the said holder, for the purpose of enlarging the scope of the former adjudication, or for other reason, shall apply to have his holding brought under the settlement described in the second and following sections [2] * *, he shall be permitted to do so: and the lands shall thenceforth be held with all the privileges conferred by the said settlement and subject to all its conditions as if no previous adjudication had been made.

Proviso.

9. *Clause 1st.*—In order to ascertain whether a holder of lands, wholly or partially exempt from payment of land-revenue, desires to accept the settlement described in sections 6 and 7 * * *[2], it shall be lawful for the Collector of each [3] * * * district, or for any other officer duly authorized by him, to serve or to cause to be served a notice in writing upon the holder of such lands, calling upon him to state whether he is willing to accept and abide by the settlement aforesaid, or whether he demands formal inquiry into his title.

Collector may serve notice on holder calling on him to state whether he is willing to accept settlement or demands formal inquiry into title.

Clause 2nd.—The notice shall be in the prevailing language of the [3] * * * district in which the lands are situate, and shall explain the nature of the alternatives offered on the part of Government.

Language and form of notice.

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[1] The words "either at law or in equity" were repealed by the Repealing Act, 1876 (12 of 1876).

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[3] The words "collectorate or" were repealed by *ibid.*

On whom to be served.

Clause 3rd.—It shall be served upon the person holding, or registered in the Government land-registers as holding, the lands wholly or partially exempt from the land-revenue as aforesaid, if he be resident within the limits of the [1][district].

Service when persons not resident within district.

Clause 4th.—If such persons as last aforesaid be not resident within the [1][district], the notice shall be served upon any person acting for the aforesaid in respect of the lands.

Service when several persons hold lands jointly.

Clause 5th.—When more persons than one hold jointly lands wholly or partially exempt from land-revenue, service of notice upon any one of them shall in every case be sufficient.

Service when holder known to reside in other district.

Clause 6th.—If the holder be known to reside in another [1][district], of the Bombay Presidency, and if there be no person acting for him in the [1][district] in which the lands are situate, the notice shall be sent to the Collector of such other [1][district] and served or caused to be served by him.

Service when no person acts for holder who cannot be found.

Clause 7th.—If there be not any person acting for the holder, and if he cannot be found, the notice shall be served upon some one of the actual occupants of the land (if any), and a copy of such notice shall be posted in the office of the Collector and of the chief revenue-officer of the táluqá or other sub-division of the [1][district], and in the chaúrí or most public place in the village where the lands are situate.

Holder making no answer for six months, deemed to have dispensed with inquiry.

Clause 8th.—If within six [2]* months after the service of such notice in manner aforesaid the person holding the lands wholly or partially exempt from revenue as aforesaid, or his legally constituted agent, shall not give an answer in writing to such notice, stating clearly in such answer that he declines the settlement, and demands an inquiry into the title to such exemption as aforesaid, he shall be deemed to have finally dispensed with such inquiry, and the lands shall be dealt with under sections 2 and 6 [3]* * * and the rules annexed to said section 6.

If no holder or owner discovered, land to be fully assessed.

If no holder or owner can be discovered, the land shall be fully assessed to the public revenue, and shall continue to be so assessed unless some persons shall, within the period allowed by the law of limitations, appear and prove his title to it.

When sufficiency of service of notice or of

Clause 9th.—In the event of any dispute arising as to the sufficiency of the service of any notice or notices under this section, or of any such reply as last aforesaid, or as to its meaning, or as to its having been

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[1] This word was substituted for the word "collectorate" by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), *infra*.

[2] The word "calendar" was repealed by *ibid*.

[3] The words "of this Act" were repealed by *ibid*.

given within the time required by this Act, the matter so in dispute shall be inquired into by the officer appointed under section 12, and the decision of such officer as aforesaid shall be final, and not open to appeal or question in any Civil Court [1]* * * or elsewhere. reply thereto disputed.

Except that in any case in which the notice has been served by the officer making an inquiry under this section, an appeal against his decision as to the sufficiency of such notice shall lie within thirty days to the [2]* Commissioner [3]* * * whose decision shall be final.

10. *Clause 1st.*—In the event of the holder upon whom notice has been served as last aforesaid claiming inquiry, such inquiry shall be conducted under the rules and according to the principles hereinafter enacted. Conduct of inquiry, when claimed.

Clause 2nd.—The establishment of a title to exemption shall not preclude the levy of full assessment on all land ascertained to be held in excess of that to which a title is established, and such excess shall forthwith be fully assessed. Land held in excess of that to which title is established to be fully assessed.

Clause 3rd.—In the event, upon such inquiry as aforesaid, of there being a failure by the holder to establish a title to exemption from payment of land-revenue, the lands to which he has failed to establish such title shall forthwith become and be liable to payment of annual revenue at the full assessment. Effect of exemption not being established.

11. *Clause 1st.*—When the holders of lands, held wholly or partially exempt from the payment of land-revenue, demand a trial and adjudication of their title under the provisions of section 10 [3]* * *, they shall be required to deposit forthwith in the Collector's treasury, or the treasury of the táluká in which the lands are situated, a sum equal to one-eighth part of the annual assessment of the land, ascertainable according to rules 1 and 2 of section 6 [3]* * * and thereafter to continue to pay annually an eighth of the said assessment as it becomes due from the date of such demand for trial until the date of such adjudication, and to furnish satisfactory security for the payment of the remaining seven-eighths thereof, in case of their failure to prove the title to exemption asserted by them, and, in default of their making such deposits and furnishing such satisfactory security, the full assessment of the land, which is to be the subject of inquiry, shall be levied, pending the adjudication. When holders demand trial and adjudication, deposits to be made and security given.

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[1] The words " or Court of Law or Equity " were repealed by the Repealing Act, 1875 (12 of 1876).

[2] The word " Revenue " before " Commissioner " and the words " of the Division " after " Commissioner " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), *infra*.

[3] The words " of this Act " were repealed by *ibid*.

Refund of deposits and assessment, with interest, if holder prove title.

Clause 2nd.—If the inquiry result in the establishment of the asserted title, the holder, or, in the event of his decease, his heir who succeeds to possession of the said land, shall be entitled to a refund of all deposits made and assessment levied under the provisions of this section pending such inquiry as aforesaid, and to interest thereon at the rate of five per cent. per annum.

Full amount of land-revenue levied if holder fail to prove title.

Clause 3rd.—If the result of the inquiry be that the holder fail to prove his title, the full amount of land-revenue assessable on the lands from the date of the holder's demand for trial shall be levied from the said holder and his security, or from either of them, any sums deposited or levied pending adjudication as aforesaid being taken in account of the same.

Inquiry by whom to be held.

12. When an inquiry is claimed under the provisions of section 10 * * *[1], such inquiry shall be held before the Collector * * *[2] or, when specially authorized by Government on that behalf, by any Assistant or Deputy Collector.

Steps to be taken by claimant demanding inquiry.

13. When any claimant shall demand an inquiry as aforesaid, he shall, within two months of notifying his intention to that effect, furnish the deposit and security required in such cases by section 11 * * *[1], and forward to the office of the Collector of the district a written statement, setting forth in detail the grounds on which the claim to exemption is founded, accompanied by copies of the original documents (if any) which he wishes to produce in support of the claim, and a list of such other evidence, whether written or oral, as he may desire to have exhibited; and no further evidence beyond such documents and witnesses as may be specifically named in the said statement or its accompaniments shall be admitted in support of such claim without reason assigned to the satisfaction of the trying authority.

On failure to comply with requirements of clause 1, claim to be disallowed.

Clause 2nd.—If any claimant shall fail, within the time specified, to comply with the requirements of clause 1 of this section, except from unavoidable causes, to be proved to the satisfaction of the Collector of the district, his claim shall be finally disallowed, and his land shall be fully assessed forthwith.

Collector to file papers for trial by himself, or forward them to other officer.

Clause 3rd.—On receipt of the said statement and accompaniments, the Collector shall file the papers for trial before himself or forward them for trial to any officer duly authorized under the section last preceding to hold such inquiry; and the trying officer shall, with reasonable regard

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "or Sub-Collector" were repealed by *ibid.*

to the public convenience and that of all persons interested, fix a time at which the trial shall be proceeded with. Time of trial to be fixed.

Due notice of the date fixed shall be given to the claimant, who shall be invited to appear in person or by duly constituted agent, with all original documents, on the day appointed for hearing. Notice thereof to claimant.

14. Whensoever any claimant demands inquiry as aforesaid, the burden of proof of title shall, in every instance, lie and be cast exclusively upon the claimant, and it shall not be lawful for any Civil Court [1]* * * * to place the burden of proof upon Government, or upon the officer or officers representing Government, of a right to levy the ordinary land-revenue upon the lands the subject of any such inquiry as aforesaid; Burden of proof of title on claimant demanding inquiry.

and it shall in every instance be presumed, until the contrary is distinctly proved, that Government has the right to levy such ordinary land-revenue upon the lands the subject of any such inquiry as aforesaid.

It is, however, hereby further provided that nothing in this section contained shall disentitle Government or its duly authorized officers to produce and give evidence in rebuttal or disproof of the alleged title to exemption aforesaid, if it seem to Government or its duly authorized officers desirable or necessary to produce and give such evidence.

15. Any claimant demanding an inquiry into his title shall be allowed the benefit of any evidence to be found in the records of the present or any former Government, in custody of such public officer as is authorized by the British Government to have charge of the same, and such public officer shall be bound to search for and to produce the same on application made to him. Claimant allowed benefit of evidence in Government records in custody of public officer.

16. The trying authority shall not be bound to admit any sanad as evidence in support of a claim to exemption, which shall not bear an endorsement as having been registered by a Collector before the expiration of one year from the date on which [2]section 42 of Regulation XVII of the Bombay Code of 1827 came into force, *i.e.*, the first September of that year. Trying authority not bound to admit in evidence certain sanads.

17. *Clause 1st.*—For the conduct of the inquiry, the rules of the [3]Code of Civil Procedure in regard to the service of summons on, and the attendance and examination of, witnesses, whether called by the claimant or on the part of Government, shall be followed, except in so far as may otherwise be specified in this Act; Code of Civil Procedure applied to service of summons on, and attendance and examination of, witnesses.

XXIII of 1861.

[1] The words "or Court of Law or Equity" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] S. 42 of Bom. Reg. 17 of 1827 was repealed by s. 1 of this Act.

[3] *See* now the Code of Civil Procedure (5 of 1908), General Acts, Vol. VI.

Office of Collector a Civil Court.

and the office of the Collector or other trying authority shall, for the purpose of this inquiry, be constituted a Court of civil judicature as contemplated by the said Code.

Language of record of proceedings.

18. The Collector or other trying authority shall keep a record of his proceedings in the language generally spoken in the zila.

Translation of decision to be given to claimant.

He shall also record in English his decision, with a full statement of the grounds on which it is passed; and a translation of such decision and statement shall, at the close of the inquiry, be given to the claimant or party attending on his behalf.

Court-fees Act applied.

Clause 2nd.—Except in regard to the translation last aforesaid, and to the statement with accompaniments described in section 13, clause 1, the provisions of [1][the Court-fees Act, 1870[2],] shall be held applicable to all petitions or other papers presented by or on behalf of the claimant, and the cost of all stamps so required shall be borne wholly by the said claimant.

Decision in favour of continuance of exemption to be final.

19. *Clause 1st.*—If the decision of the Collector or trying authority be in favour of the continuance of the exemption or any portion thereof, such exemption shall be admitted in terms of the decision, which shall be final.

Appeal by claimant from adverse decision.

Clause 2nd.—If the decision be against the right of the claimant to the total or partial exemption claimed, the claimant shall be at liberty to appeal to the Zila Court within ninety days from the date of that decision: provided that the annual value of the exemption decided against be rupees fifty or upwards and that proceedings under section 10, clause 3, shall not in any case be stayed pending the result of such appeal.

Refund if appeal succeed.

Clause 3rd.—If the result of the appeal be in favour of the claim, the amount which may have been levied under section 10, clause 3, shall be refunded.

Forfeiture by claimant producing in appeal new evidence not produced at original trial.

Clause 4th.—If any evidence, oral or documentary, not produced before the Collector or trying authority, be admitted in appeal without the claimant showing sufficient cause why such evidence was not previously produced, and proving that such cause was assigned to the Collector, or adducing good reason for its not having been so assigned, the said claimant shall forfeit, even if the appeal be successful, all sums which may have been levied from him under section 10.

Court-fees Act applied.

Clause 5th.—The provisions of [1][the Court-fees Act, 1870[2],] shall be applicable to all proceedings under appeal. VII of 1870.

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[1] These words were substituted for the words "the Stamp Act" by the Amending Act, 1895 (16 of 1895). Vol. I of this Code.

[2] General Acts, Vol. II.

Clause 6th.—The decision of the Collector or trying authority shall not be liable to be set aside on appeal, on account of want of form or on any other technical ground. Bar to setting aside Collector's decision.

20. *Clause 1st.*—When exemption is claimed under a sanad or other writing granted by the present or any former Government, or by any of their officers possessing authority to grant the same, exemption shall be admitted in terms of the grant, unless evidence be forthcoming to show that the terms of such grant did not take effect or were subsequently modified, cancelled or revoked by competent authority. When exemption claimed under sanad, etc., may be admitted in terms of grant.

Clause 2nd.—The public officers specified in the [1]* Schedule are recognized to have possessed authority under former Governments to grant or revoke sanads or other writings, exempting land either wholly or partially from the payment of land-revenue. Officers recognized as authorized to grant or revoke sanads, etc.

21. Claims to exemption from payment of land-revenue, in virtue of prescription, shall be admitted under the following circumstances:— Admission of claims to exemption in virtue of prescription.

Clause 1st.—When land situated in districts ceded by or conquered from the Peshwa after 1803 is proved to have been held by any person, his heirs or others deriving right from him, wholly or partially exempt from payment of land-revenue, under a tenure recognized by the custom of the country, for sixty years in succession next preceding the date of this Act; or when land situated in any other district is proved to have been held in like manner for thirty years as aforesaid.

Clause 2nd.—Provided, however, that, whenever exemption has been enjoyed under a sanad or other writing, no title by prescription shall be admitted unless the full period required under the last preceding clause shall have lapsed subsequent to the expiry of the title under the sanad or writing aforesaid.

Clause 3rd.—And that in no case shall a title to prescription be admitted in respect to Government lands alienated since the British Government obtained possession of the country, and without its permission.

Clause 4th.—And further, that the exemption during the periods of sixty and thirty years, respectively, as detailed in clause 1 of this section, be proved to have been enjoyed in strict conformity with the conditions of the recognized tenure under which it is claimed.

22. A prescriptive title admitted under the preceding section shall continue to be recognized only in conformity with the conditions of the tenure under which the exemption has been hitherto enjoyed. Conditions on which admitted prescriptive title to continue to be recognized.

[1] The word "annexed" was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

Prescriptive title when not admitted.

23. A prescriptive title under section 21 shall not be admitted in respect to any land held for service, or on a tenure implying an obligation of service, whether such service be performed or not.

Sanad, etc., of *prescriptive* enjoyment not sufficient title in so far as exemption annulled by order issued by present or former Government, etc.

24. *Clause 1st.*—A sanad or other writing under section 20, of prescriptive enjoyment under a recognized tenure as described in *section 21*, shall not be considered a sufficient title, in so far as the exemption has been wholly or partially annulled by an order issued by the present or any former Government, or by any public officer possessed under a former Government of full and sufficient authority to grant deeds exempting lands from the payment of public revenue, or so far as the land has been assessed under an order, not subsequently recalled, issued by any of the said public officers and such assessment has been realized.

Deed or enjoyment under recognized tenure when not sufficient title.

Clause 2nd.—Nor shall such a deed or writing, or such enjoyment under a recognized tenure, be considered as a sufficient title, if the land has been subsequently assessed for the period of twelve (12) years like other land of the same description enjoying no exemption, and the assessment has been realized but without prejudice to any suit filed in support of the title to exemption before the completion of the said period.

Title when affected only to extent of assessment made and realized.

Clause 3rd.—And, where the assessment so levied for twelve (12) years has not been to the extent of that imposed on land of the same description enjoying no exemption, such assessment shall affect the title only to the extent of the assessment so made and realized.

Adoptions when not admitted.

25. Adoptions unrecognized by the present or former Government or by one of their public officers possessed of competent authority shall not be admitted in any cases in which a claim to exemption is founded on a grant limiting succession to lineal descent.

Application of sections 20 to 25.

26. The provisions of sections 20 to 25 shall be of general application in all cases in which inquiry may have to be made, and shall not be confined to cases in which inquiry may have been demanded under section 10 * * *[1].

27. [*Pending proceedings.*] *Rep. Act XII of 1873.*

Appeal from proceedings of officers making settlement.

28. When any settlement of a claim or claims to total or partial exemption from land-revenue has been made by the Governor in Council, or any duly authorized officer of Government under this Act, * * * * * * *[2], any appeal from or against the proceedings, orders or

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[1] The words " of this Act " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words " it shall not be competent for any Civil Court, or Court of Law or Equity, to question such settlement, so far as regards the right of Government to levy from the holder or holders of the lands for the time being the annual quit-rents mentioned in the second and sixth sections of the said Act " were repealed by the Bombay Revenue Jurisdiction Act, 1876 (10 of 1876), Vol. I of this Code.

acts of the officers of Government engaged in making any such settlement shall be made to the Governor in Council or to such officer or officers as may be appointed by the Governor in Council to take cognizance of such appeals, and shall not be cognizable by any other authority.

29. [*Bar of suits against Government officers.*] *Rep. Act X of 1876.*

30. All quit-rents payable under this Act shall be levied in the manner in which ordinary land-revenue is recoverable, and the claim of Government to such quit-rents shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment, decree, execution or attachment, or otherwise, howsoever against the lands or the holder or holders thereof. Quit-rents how levied.

31. Whenever it shall be necessary either to measure or to assess any lands in order to give effect to any of the provisions of this Act, it shall be lawful for the Collector or officer duly authorized by him to enter upon the same at any time and from time to time for the purpose of making an assessment or assessments thereof. Power to enter lands to measure or assess same.

32. (*A*) [*Number and gender.*] *Rep. Bom. Act III of 1886.* Interpretation-clause.

(*B*) the word "lands" shall, for the purposes of this Act, be understood to include villages, portions of villages, shares of the revenues thereof, and landed estate of every description:

(*C*) "political tenure" is tenure created from, or dependent upon, political considerations, the existence of which shall be determined by the Government:

(*D*) the phrase "lands held for service" shall include lands specially granted, or held or continued, nominally for the performance of service, whether that service be actually performed or not, and lands granted, held or continued, partly in consideration of past service and partly for the performance of prospective service, but shall not include lands granted in consideration of past service only; and it is to be understood that Government shall be competent to determine any question that may arise in giving effect to this Act as to whether or not any lands are lands held for service:

(*E*) "formal adjudication" shall be held to mean final adjudication under any regulation of the Bombay Government, or final decision by the British Government or some authorized officer thereof:

(*F*) for the purposes of this Act, the word "holder" shall be taken to signify the person who, by himself, his tenants, sub-tenants or agents, is in possession of the land held wholly or partially exempt from land-revenue assessment, and shall include a mortgagee in possession as afore-

said. The committee, manager or trustee of any temple, who may be in possession of such lands, shall be considered the holder thereof:

(*G*) the word "transfer" shall, for the purposes of this Act, be taken to mean the permanent alienation of land by assignment, gift, sale, deed or other instrument, or otherwise howsoever, and also mortgage of the same under which possession shall have passed or is to pass to the mortgagee.

SCHEDULE.

(*See Section 20, Clause 2nd.*)

LIST OF OFFICERS WHO, UNDER FORMER GOVERNMENTS, HAD POWER TO CONFER GRANTS EXEMPTING LANDS WHOLLY OR PARTIALLY FROM THE PAYMENT OF PUBLIC REVENUE.

UNDER THE EMPERORS OF DELHI.

Subadárs of Provinces.

IN THE TERRITORIES THAT WERE SUBJECT TO THE PESHWA.

The Peshwa.

All officers holding the mutálakí seal.

All sarsubahdárs in their districts.

All superior local functionaries acting directly under the Peshwa, without the intervention of any superior authority, if the deeds bear date prior to 1803.

The Gáikwár considered as a sarsubahdár in the Peshwa's territories to the north of the Maihi, during the period that he held them in farm.

IN THE TERRITORIES THAT WERE SUBJECT TO THE GÁIKWÁR.

The Gáikwár.

All officers holding the mutálakí seal.

IN THE TERRITORIES THAT WERE SUBJECT TO SCINDIA.

Scindia.

His officers holding the mutálakí seal.